



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

NOV 04 2019

Mr. Sam Reynolds
MuckRock News
DEPT MR 76510 411A Highland Ave
Somerville, MA 02144

Via electronic mail: 76510-80119373@requests.muckrock.com

BIS FOIA Number: BIS 19-202
FOIAonline Number: DOC-BIS-2019-001695

Dear Mr. Reynolds:

This is in response to your August 12, 2019, Freedom of Information Act (FOIA), 5 U.S.C. § 552, request to the Bureau of Industry and Security (BIS) for “any email records between staff of BIS (date range: 2019) regarding the Wall Street Journal’s coverage of AMD’s Joint Venture in China with THATIC (Tianjin Haiguang Advanced Technology Investment, Co., Ltd); published on June 27, 2019 (<https://www.wsj.com/articles/u-s-tried-to-stop-china-acquiring-world-class-chips-china-got-them-anyway-11561646798>); any email records between staff of BIS (date range: 2019) and Wall Street Journal reporters Kate O’Keeffe and Brian Spegele.”

BIS has completed its review and located 196 pages of responsive records to your request. We have determined that 156 pages should be released in part under FOIA exemptions (b)(3), (b)(5), (b)(6) and (b)(7)(c).

FOIA Exemption (b)(3), protects information under Section 1761(h) of the Export Control Reform Act of 2018 (the “Act”). Section 1761(h)(1)(A)–(B) states, in pertinent part, that “information submitted or obtained in connection with an application for a license or other authorization to export, reexport, or in-country transfer items or engage in other activities, a recordkeeping or reporting requirement, an enforcement activity, or other operations” further described in the statute “shall be withheld from public disclosure and shall not be subject to disclosure under section 552(b)(3) of title 5, United States Code, unless the release of such information is determined by the Secretary to be in the national interest.” This Section does not merely authorize maintaining the confidentiality of information obtained under the Act, but requires such information not be disclosed unless its release is determined to be in the national interest. In the absence of a national interest determination authorizing release of information responsive to your request and consistent with the criteria of Section 1761(h), any such information cannot be released.

FOIA Exemption (b)(5), exempts from disclosure “inter-agency or intra-agency” government documents which are both pre-decisional and deliberative. In addition, the attorney work-product privilege and the attorney-client privilege have been incorporated into exemption.



FOIA Exemption (b)(6), exempts from disclosure information about individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, so long as that invasion is not outweighed by a public interest in disclosure.

FOIA Exemption (b)(7)(C), exempts information that the disclosure of which “could reasonably be expected to constitute an unwarranted invasion of personal privacy.”

If you have any questions or concerns or would like to discuss any aspect of your request, you may contact the Bureau’s FOIA Public Liaison:

Grace Agyekum
Bureau of Industry and Security
Office of Planning, Evaluation and Management
1401 Constitution Ave. NW, Room 6622, Washington, DC 20230
telephone at (202) 482-7893, email at grace.agyekum@bis.doc.gov

Please refer to your FOIA request tracking number when contacting us.

In addition, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
e-mail at ogis@nara.gov
telephone at 202741-5770; toll free at 1-877-684-6448, facsimile at 202-741-5769

You have the right to appeal this partial denial of your FOIA request. An appeal must be received within 90 calendar days of the date of this response letter. Address your appeal to the following office:

Assistant General Counsel for Employment, Litigation and Information
U.S. Department of Commerce
Office of the General Counsel, Room 5896
1401 Constitution Ave., NW
Washington, D.C. 20230

An appeal may also be sent by e-mail to FOIAAppeals@doc.gov or by FOIAonline, if you have an account in FOIAonline, at <https://foiaonline.regulations.gov/foia/action/public/home#>. The appeal should include a copy of the original request and initial denial, if any. All appeals should include a statement of the reasons why the records requested should be made available and why the adverse determination was in error.

The appeal letter, the envelope, and the e-mail subject line should be clearly marked "Freedom of Information Act Appeal." The e-mail, FOIAonline, and office mail are monitored only on working days during normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday). FOIA appeals posted to the e-mail box, FOIAonline, or the office after normal business hours will be deemed received on the next normal business day. If the 90th calendar day for submitting an appeal falls on a Saturday, Sunday or legal public holiday, an appeal received by 5:00 p.m., Eastern Time, the next business day will be deemed timely.

Sincerely,

A handwritten signature in cursive script that reads "Carol M. Rose".

Carol M. Rose
Chief Financial Officer and
Director of Administration

Attachment(s)